

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

GEORGE IVERSON, individually,

Plaintiff,

V.

Case No. 04-cv-12079-NG

**BRAINTREE PROPERTY  
ASSOCIATES, L.P.,**

Defendant.

## **DEFENDANT'S MOTION FOR PROTECTIVE ORDER**

Defendant Braintree Property Associates, L.P. (“Braintree”), pursuant to Fed. R. Civ. P. 26(c) and Local Rule 37.1, moves this Court for a protective order prohibiting Plaintiff’s expert, Mr. William Norkunas, from inspecting Defendant’s property based upon the following:

1. Plaintiff has filed this suit against a Braintree facility known as the South Shore Plaza Mall (“Mall”), located at 250 Granite St., Braintree MA 02184.
2. Plaintiff seeks to inspect the Mall allegedly to determine if any non Title III-compliant architectural barriers exist at the Mall.
3. William Norkunas is Plaintiff’s purported “expert on Title III of the Americans with Disabilities Act, its regulations and guidelines, and their application to the facilities and businesses that are the subject of the instant lawsuit.”
4. As is set forth in more detail in the attached memorandum of law filed herewith, Braintree seeks to prevent Mr. Norkunas from inspecting the Mall since he has

already examined the property at issue, and indeed, has already issued his Rule 26(a)(2) expert report. Because the only reason for Mr. Norkunas to return to the South Shore Plaza Mall would be to drive up fees and costs, and because Plaintiff's law firm has been sanctioned in the past for this very behavior, the Court should prohibit Plaintiff from engaging in this unnecessary and excessive expense.

WHEREFORE, for the foregoing reasons, as are set forth more fully in the memorandum of law filed herewith, Defendant Braintree respectfully requests that this Court:

1. Grant Defendant Braintree's Motion for Protective Order, and
2. Grant such other and further relief as the Court deems just and equitable, including Defendant Braintree's costs and attorneys' fees for the preparation, filing, and hearing of this motion.

**REQUEST FOR ORAL ARGUMENT**

Pursuant to Local Rule 7.1(D), Defendant Braintree requests oral argument on this motion.

Respectfully submitted,

BRAINTREE PROPERTY ASSOCIATES,  
L.P., a Massachusetts limited partnership

By its attorneys,

/s/ Jennifer Martin Foster

Jennifer Martin Foster (BBO #644796)

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**CERTIFICATION PURSUANT TO FED. R. CIV. P. 26(c) and  
LOCAL RULES 7.1(A)(2), 37.1(A) and 26.2(C)**

On behalf of Defendant Braintree Property Associates, L.P., by and through undersigned counsel, I hereby certify that, pursuant to Fed. R. Civ. P. 26(c) and Local Rules 7.1(A)(2), 37.1(A) and 26.2(C), counsel have conferred and have attempted in good faith to resolve or narrow the issues raised in the above motion and to narrow the areas of disagreement to the greatest possible extent.

/s/ Jennifer Martin Foster  
Jennifer Martin Foster

**CERTIFICATE OF SERVICE**

**I HEREBY CERTIFY** that a true and correct copy of the foregoing has been furnished via U.S. Mail to **O. OLIVER WRAGG, ESQ.**, Fuller, Fuller & Associates, P.A., 12000 Biscayne Boulevard, Suite 609, North Miami, Florida 33181, this 10th day of March, 2005.

/s/ Jennifer Martin Foster  
Jennifer Martin Foster

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